

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ANTHONY M. BARNES,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-06-1298-D
)	
MICHAEL J. ASTRUE, Commissioner,)	
Social Security Administration,)	
)	
Defendant.)	

ORDER AWARDING ATTORNEY FEES

This matter comes before the Court on Plaintiff's Petition for the Award of Attorney's Fees Under the Equal Access to Justice Act ("EAJA") [Doc. No. 26]. Plaintiff claims he is entitled to an award of attorney's fees under EAJA, 28 U.S.C. § 2412(d), and requests an award in the amount of \$6,323.80 for time expended in this case by his attorneys (36.7 hours) and paralegals (3.1 hours). Defendant has timely responded by stating he does not oppose an award in the amount of \$6,291.80 but objects to the inclusion of paralegal fees in the amount of \$32.00 for 0.4 hours of non-legal or post-remand work. In reply, Plaintiff contends that Defendant misinterpreted the time records and that the contested paralegal entries were actually for compensable legal work.¹

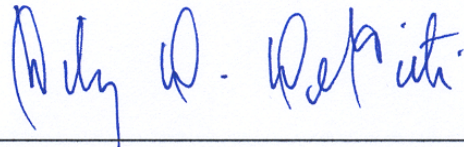
Upon consideration of the law, the record, and the arguments of the parties, the Court finds: (1) the Commissioner's position was not substantially justified; (2) Plaintiff is entitled to attorney's fees under the Equal Access to Justice Act; and (3) the amount requested is reasonable. The Court

¹ In his reply brief, Plaintiff also attempts to request an additional \$118.30 to reflect the attorney's fees incurred in filing a reply. Local Civil Rule LCvR7.1(i) does not authorize a reply brief for this purpose. A motion to supplement Plaintiff's petition to seek additional relief would be needed to provide Defendant an opportunity for a response. Thus, this request is disregarded.

further finds that Defendant's objection to \$32.00 of fees for 0.4 hours of paralegal time is not well taken and that Plaintiff should be awarded attorney's fees in the full amount requested.

IT IS THEREFORE ORDERED that Plaintiff's motion for attorney's fees is GRANTED. The Court orders an award of attorney's fees to Plaintiff pursuant to the Equal Access to Justice Act in the amount of \$6,323.80. Should an additional fee award under 42 U.S.C. § 406(b) subsequently be authorized, Plaintiff's attorneys shall reimburse him for the smaller amount as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 10th day of July, 2008.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE